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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,012	08/18/2003	Walter J. Dobrovoly	M81.12-0050	2958

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EXAMINER

MILLS, DANIEL J

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 01/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/643,012	<b>Applicant(s)</b> DOBROVOLNY, WALTER J.	
	<b>Examiner</b> Daniel J. Mills	<b>Art Unit</b> 3679	

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-7,9-11 is/are rejected.
- 7) ☒ Claim(s) 4,8 and 12-19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-7, 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by LeVahn (US 4,355,631).

Regarding claim 1, Levahn discloses a device for clamping a retractor support apparatus to an operating table, the operating table having a side rail, the device comprising: a first clamping member (78) disposed between a side of the operating table (10) and the side rail (12); and a second clamping member (82) disposed between the side of the operating table and the first clamping member; and a mechanism operably (the jaw mechanism) connected to the first clamping member and the second clamping member such that the first and second clamping members are movable in opposing directions thereby frictionally engaging the first clamping member with the side rail and the second clamping member with the side of the operating table (by fully advancing 102, 82 would contact 10).

Regarding claim 2, Levahn discloses a device for clamping a retractor support apparatus to an operating table, wherein the mechanism includes a plurality of threaded rods (102, 130) engaging the first and second clamping members such that when the

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threaded rods are turned, the first and second clamping members move in the opposing directions (this is true when both threaded rods are turned).

Regarding claim 3, Levahn discloses a device for clamping a retractor support apparatus to an operating table, wherein the mechanism includes a first threaded rod (130) engaging the first and second clamping members above the side rails (by acting on 24) and a second threaded rod (102) engaging the first and second clamping members below the side rail such that when the first and second threaded rods are turned, the clamping members move in the opposing directions.

Regarding claim 5, Levahn discloses a device for clamping a retractor support apparatus to an operating table, further including a U-shaped member (78) positioned on the side rails with the first clamping member being one leg of the U-shaped member and the U-shaped member having a second leg being disposed on a side of the side rail opposite from the operating table and the first leg.

Regarding claim 6, Levahn discloses a device for clamping a retractor support apparatus to an operating table, wherein the first and second threaded rods each have a handle (100, 128) fixedly attached thereto for turning the first and second threaded rods.

Regarding claim 7, Levahn discloses a clamping device for retaining a retractor support apparatus over an operating table having a side rail, the clamping device comprising: a U-shaped member (78) having first and second legs, the legs being disposed on opposite sides of the side rail; and first (130) and second rods (102) threadably engaging the U-shaped member with the first threaded rod positioned above

the side rail and the second threaded rod being positioned below the side rail, each of the rods having distal ends for acting against the operating table such that when the threaded rods are turned, the first and second legs are forced against the side rail, frictionally engaging the side rail and holding the U-shaped member in a clamped position against the side rail.

Regarding claim 9, Levahn discloses a clamping device for retaining a retractor support apparatus over an operating table having a side rail, wherein both threaded rods are turned to force the first leg against the side rail.

Regarding claim 10, Levahn discloses a clamping device for retaining a retractor support apparatus over an operating table, the operating table having a side rail, the clamping device comprising: a first clamp plate (92) disposed between the side rail and a side of the operating table; a second clamp plate (94) disposed between the first clamp plate and the operating table wherein the second clamp plate engages the side of the operating table (when 102 is fully extended); and a first force providing mechanism (98) operably connected to the first clamp plate and the second clamp plate, the force providing mechanism providing a clamping force to the first clamp plate by interacting with the second clamp plate such that the first clamp plate is positioned in a first position wherein the first clamp plate frictionally engages the side rail.

Regarding claim 11, Levahn discloses a clamping device for retaining a retractor support apparatus over an operating table, further comprising: a top member (80) attached to the first clamp plate; and a retaining member (vertical inner wall connecting 88 and 90 in Figure 4) attached to the top member wherein the retaining member is

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spaced apart from the first clamp plate wherein the first clamp plate, the top member and the retaining member define a slot (in which 12 is located) which slidably engages the side rail.

***Allowable Subject Matter***

Claims 4, 8, 12-19 objected to as dependent on rejected claims, but would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim 4, LeVahn discloses the device of claim 4 with the exception of first and second rods threadably engaging the first clamping member while freely rotating in engagement with the second clamping member in combination with all other claim limitations, the prior art neither discloses this limitation, nor teaches any motivation to combine.

Regarding claim 8, LeVahn discloses the device of claim 4 with the exception of a clamping plate rotatably engaged by the distal ends of the first and second rods and positioned against the operating table to engage the operating table when at least one of the threaded rods is turned, in combination with all other claim limitations, the prior art neither discloses this limitation, nor teaches any motivation to combine.

Regarding claim 12, LeVahn discloses the device of claim 4 with the exception of a first bore disposed into the second clamp plate and a first threaded bore disposed

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through the first clamp plate, wherein the first threaded bore is aligned with the first bore and a first threaded bolt threadably engages the first threaded bore and operably engages the first bore in combination with all other claim limitations, the prior art neither discloses this limitation, nor teaches any motivation to combine. Claims 13-15 allowable for similar reasons.

Regarding claim 16, LeVahn discloses the device of claim 4 with the exception of a second force providing mechanism operably connected to both the second clamp plate and the first clamp plate a distance from the first force providing mechanism, the second force providing mechanism providing a force to both the second clamp plate and the first clamp plate in combination with all other claim limitations, the prior art neither discloses this limitation, nor teaches any motivation to combine. Claims 17-19 allowable for similar reasons.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Jensen (US 3,572,326), Kees et al. (US 4,018,412), McCready et al. (US 4,254,763), Pelta (US 4,971,037), Ray et al. (US 5,000,163), LeVahn et al. (US 5,400,772), Dobrovolny et al. (US 5,704,900 and US 6,042,541), Bobbitt et al. (US 5,713,245), Dobrovolny (US 5,741,210), Boucher et al. (US 6,622,980) are cited for pertaining to retractor apparatus.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel J. Mills whose telephone number is 571-272-8115. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 571-272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DJM

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11/28/2005



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